



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RSS CD2016-CD1 - NY R5S, LLC,

Plaintiff,

-against-

R&F 55TH STREET COMMERCIAL OWNER
LLC, et al.,

Defendants.

21-CV-4877 (GHW) (BCM)

ORDER

BARBARA MOSES, United States Magistrate Judge.

Now pending before the Court in this commercial foreclosure action are: (1) plaintiff's motion for the appointment of a receiver (Dkt. No. 21); and (2) defendants' motion to dismiss the complaint (Dkt. No. 33), both of which are fully briefed and scheduled for argument on October 7, 2021. (Dkt. No. 46.)

On September 17, 2021, defendants filed a letter application (Dkt. No. 47) in which they (1) requested leave to withdraw their pending motion to dismiss in light of recent developments in the law and replace it with a new motion based upon current law; (2) requested, in the alternative, that this action be stayed until January 15, 2022, "so that the Court has all of the proper law before it"; and (3) advised the Court that settlement discussions are "significantly advanced," such that further motion practice may be unnecessary.

On September 23, 2021, plaintiff filed a responding letter (Dkt. No. 49) stating that it did not oppose "Defendants' request for a pre-motion conference for the purpose of obtaining leave to withdraw their pending motion to dismiss . . . and re-moving for dismissal," but that it did object to a stay of this action until January 2022. Plaintiff further advised that while the parties are engaged in settlement discussions, no settlement has yet been reached.

No pre-motion conference is required. It is hereby ORDERED that defendants' motion to dismiss is deemed WITHDRAWN. Defendants may file a new motion to dismiss on or before **October 1, 2021**. Unless the parties otherwise stipulate, briefing shall proceed in accordance with Local Civ. P. 6.1(b). The argument now scheduled for October 7, 2021 is ADJOURNED to **November 8, 2021, at 10:00 a.m.**, to ensure that the Court has the benefit of full briefing on the new motion to dismiss as well as the pending receivership motion. If before that date the parties reach a settlement agreement in principle, they are to promptly so advise the Court.

The Clerk of Court is respectfully directed to close Dkt. No. 47.

Dated: New York, New York
September 24, 2021

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Barbara Moses".

BARBARA MOSES
United States Magistrate Judge